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Docket No.: 025562.0012-US01
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bradley P. Glassman et al.

Application No.: 10/756,354

Group Art Unit: 1615

Filed: January 14, 2004

Examiner: S. L. Howard

For: METHOD OF TREATING ONYCHOMYCOSIS
WITH UREA AND AN ANTIOXIDANT

TRANSMITTAL LETTER

MS Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed are the following items for filing in connection with the above-referenced Patent Application:

1. Response to Restriction Requirement; and
2. Return receipt postcard.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0740, under Docket No. 025562.0012-US01. A duplicate copy of this paper is enclosed.

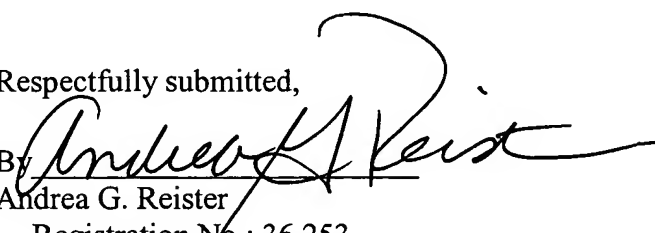
It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this

application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0740.

Dated: September 21, 2004

Respectfully submitted,

By


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Docket No.: 025562.0012-US01
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bradley P. Glassman et al.

Application No.: 10/756,354

Confirmation No.: 3208

Filed: January 14, 2004

Art Unit: 1615

For: METHOD OF TREATING
ONYCHOMYCOSIS WITH UREA AND AN
ANTIOXIDANT

Examiner: S. L. Howard

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed August 23, 2004 (Paper No. 3), applicant hereby provisionally elects claims 7-13 for continued examination, with traverse.

The Examiner has required restriction between the following two groups:

I. Claims 1-6, drawn to a method of treating onychomycosis, comprising administering to a nail area of a patient a composition comprising urea as the active antifungal ingredient, Vitamin E, and one or more dermatologically acceptable excipients, classified in class 424, subclasses 61 and 401.

II. Claims 7-13, drawn to a method of treating onychomycosis, comprising administering to a nail area of a patient a composition comprising urea as the active antifungal ingredient, an antioxidant, and one or more dermatologically acceptable excipients, classified in class 424, subclasses 61 and 401.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, the Examiner has not provided any reason why the two groups of claims are "independent and distinct," asserting only that Group I "is different from Group II." In fact, the Examiner identifies the exact same classification for these inventions, *i.e.*, class 424, subclasses 61 and 401. Moreover, the distinction raised by the Examiner in the telephonic interview dated August 17, 2004, that Group I (claims 1-6) did not include an antioxidant and Group II (claims 7-13) did include an antioxidant, is not correct. Group I claims 1-6 all include Vitamin E, which is an antioxidant (*see*, for example, page 5, lines 15-22 of the application as originally filed). In fact, claim 13, classified by the Examiner in the Group II claims having an antioxidant, is directed to Vitamin E as the antioxidant.

For at least the foregoing reasons, Applicants respectfully submit that the Examiner has not provided any reason why Group I and Group II represent "independent and distinct inventions," and, as such, the restriction requirement is not proper. It is respectfully requested that the restriction requirement be withdrawn, and that each of claims 1-13 presently pending in this application be examined.

Dated: September 21, 2004

Respectfully submitted,

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